IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3488 OF 2006

Smt.Mathurabai Mukund
Chaudhary & Ors. .. Petitioners.
Vs.
Smt.Sitabai Shiva
Chaudhary & Ors. .. Respondents.

Mr.S.V.Dhakepalkar for the petitioners.
Mr.Ashvin Shete i/b Shri S.B.Shetye for respondent nos.1 to 6.

CORAM : D.B.BHOSALE, J.

DATED : 17TH OCTOBER, 2006

P.C.:

. Heard learned counsel for the petitioners and respondent nos.1 to 6.

2. The petition is directed against the order dated 28.3.2006 by which the respondents-defendants' appeal was allowed and the order passed on the application at Exhibit-5 by the trial Court dated 27.1.2006 was quashed and set aside. The petitioners-plaintiffs had filed an application seeking temporary injunction restraining the defendants from raising any construction or carrying out any construction on the suit land. Admittedly, the respondents have completed the construction and in view thereof nothing further survives in the writ

petition. The suit is for partition and in view thereof it is open for the petitioners to add the newly constructed building as suit property seeking partition thereof. It is also open for the petitioners to file appropriate application before the trial Court seeking injunction restraining the respondents-defendants from creating third party rights in the aforesaid constructed portion pending hearing of the suit. If such applications are filed same may be considered in accordance with law.

. The writ petition is disposed of.

(D.B.Bhosale, J.)